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86TH CONGRESS }
2d Session }

SENATE

} REPORT
No. 1789

FRANCESCO CAROZZA

JUNE 30, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1643]

The Committee on the Judiciary, to which was referred the bill (H.R. 1643) for the relief of Francesco Carozza, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of a crime involving moral turpitude in behalf of a native and citizen of Italy.

STATEMENTS OF FACTS

The following information was contained in House Report No. 1701, on the bill:

The beneficiary is a 46-year-old native and citizen of Italy, residing in that country with his wife and five minor children. The entire family is eligible to nonquota status under the provisions of section 4 of Public Law 86-363, but the beneficiary is inadmissible to the United States because of a conviction in 1945, in Italy, for receiving stolen goods. He was sentenced to serve 10 months in prison. The beneficiary has two brothers who are citizens of the United States.

Certain facts in this case are contained in a letter dated June 12, 1957, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary, regarding a bill then pending for the relief of the same person. That letter and accompanying memorandum read as follows:

DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 12, 1957.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 3576) for the relief of Francesco Carozza, there is attached a memorandum of information concerning the beneficiary. This memorandum has been prepared from the Immigration and Naturalization Service files relating to the beneficiary by the New York, N.Y., office of this Service, which has custody of those files.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude, or who admit having committed such a crime, or who admit committing acts which constitute the essential elements of such a crime, and would provide that the alien may be issued a visa and admitted to the United States for permanent residence, if he is otherwise admissible under that act. The bill would further provide that this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to its enactment.

Sincerely,

J. M. SWING, *Commissioner.*

"MEMORANDUM OF INFORMATION FROM IMMIGRATION AND
NATURALIZATION SERVICE FILES RE FRANCESCO CAROZZA,
BENEFICIARY OF H.R. 3576

"Information concerning the case was obtained from Mr. Alessandro Carozza, the beneficiary's brother, who is the sponsor of the bill.

"Francesco Carozza was born on March 17, 1913, at San Marco Evangelista, Caserta, Italy. He resides there with his wife and their five children who range in age from 16 to 4 years. He is a laborer by occupation but no information is available as to his income or financial situation other than his ownership of his home valued at approximately \$1,000. He has two brothers, Alessandro and Anthony, who are naturalized citizens and residents of the United States. His only other close relatives are two sisters, Italian nationals, one of whom resides in Italy and the other in France.

"The sponsor has advised that the beneficiary was convicted in an Italian civil court in 1945 of illegal possession of U.S. Army ammunition. Although he was thereupon sentenced to 10 months' imprisonment, he served no time in prison but paid a fine of \$20 and was placed on parole. Because of this criminal record the American consul at Naples has refused to issue an immigrant visa to the beneficiary. The committee may desire to request the Bureau of Security

and Consular Affairs, Department of State, to secure information in this connection.

"The sponsor, Alessandro Carozza, has been a resident of Staten Island, New York City, since 1934. He is married and has two minor children. He is a barber by occupation and has an annual income of \$2,500 from his business. His assets consist of an \$18,000 equity in his home, business equipment valued at \$3,000, personal effects valued at \$5,400, and \$1,800 in cash savings. He served honorably in the Army of the United States from September 1, 1941, to October 16, 1945."

The Director of the Visa Office, Department of State, submitted the following report on this legislation:

DEPARTMENT OF STATE,
Washington, January 13, 1959.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CELLER: I refer to your letter of February 27, 1957, requesting a report in the immigrant case of Mr. Francesco Carozza, beneficiary of H.R. 3576, 85th Congress, introduced by Mr. Ray on January 23, 1957. The bill would render the beneficiary eligible to receive a visa and admissible to the United States notwithstanding a ground of ineligibility arising under section 212(a)(9) of the Immigration and Nationality Act.

According to information received from the American consulate general at Naples, Italy, the beneficiary was born on March 10, 1913, at Cosenza, Italy, where he still resides. He completed elementary schooling equivalent to a fifth grade education in the United States and his occupation is that of a road maintenance laborer.

In July 24, 1953, a fourth-preference petition filed by the beneficiary's brother, Mr. Alessandro Carozza, a resident of Staten Island, N.Y., was approved. During the investigation conducted pursuant to the beneficiary's application for a special nonquota immigrant visa under the Refugee Relief Act of 1953, it was revealed that on November 9, 1945, he was convicted by a competent Italian court of receiving stolen goods in violation of article 648 of the Italian Penal Code and sentenced to 10 months' imprisonment and a fine of 10,000 lire. The Court of Appeals of Naples affirmed the judgment of the lower court, upholding the sentence to imprisonment and reducing the fine to 6,000 lire. On the basis of the court records the beneficiary was found ineligible to receive a visa under section 212(a)(9) of the Immigration and Nationality Act as an alien who had been convicted of a crime involving moral turpitude. Since the value of the goods in question was in excess of \$100 in U.S. currency at the time the offense was committed, the provisions of section 4 of Public Law 770, 83d Congress, 2d session, were considered inapplicable in the case. A copy, in duplicate, of the translation of the above-mentioned court record is enclosed.

On the basis of reliable information showing the beneficiary to have been a member of the Communist Party in 1945, the consulate general made a preliminary finding of ineligibility to receive a visa under section 212(a)(28)(C) of the Immigration and Nationality Act. However, as a result of a careful and extensive interview with Mr. Carozza, the responsible consular officer at Naples elicited information of such a nature as to warrant a finding that the beneficiary's membership was involuntary within the meaning of section 212(a)(28)(I)(i) of the act.

The fourth-preference portion of the Italian quota, to which the beneficiary is chargeable, is heavily oversubscribed. Consequently, a protracted period of waiting must be anticipated before final consideration could be given to the beneficiary's visa application.

Sincerely yours,

JOSEPH S. HENDERSON,
Director, Visa Office.

A statement with enclosures, submitted to the committee by Mr. Ray, the author of this bill, reads as follows:

"Mr. Chairman, thank you for the opportunity to testify in support of H.R. 1643 for the relief of Francesco Carozza. The intent of the bill is to make Francesco Carozza eligible to receive a visa and admissible to the United States notwithstanding a ground of ineligibility under section 212(a)(9) of the Immigration and Nationality Act. On November 9, 1945, Mr. Carozza was convicted by an Italian court of receiving stolen goods in violation of article 648 of the Italian Penal Code. Mr. Carozza alleges that he had received from Allied soldiers, friends of his brother, the articles which were seized from him.

"I enclose for the committee files a statement from the court of appeals in Naples indicating that Francesco Carozza has been given a certificate of rehabilitation. I also enclose a statement from the sponsor, Alessandro Carozza; an affidavit from his priest attesting to the good moral and civil behavior of the beneficiary; and a certificate of good behavior from the mayor of the province of Caserta.

"Mr. Chairman, I respectfully request favorable consideration of this bill."

TRANSLATION

[Extract copy from the original document as registered in the Chancery of the Court of Appeals of Naples]

COURT OF APPEAL NAPLES—PENAL SECTION—ITALIAN REPUBLIC

In the name of the Italian peoples, on March 31, 1955, in Naples. The Council Chamber of the 111 Penal Section of the Court of Appeals of Naples, composed as follows:

1. Dr. Pasquale Falciatore, president.
2. Dr. Scala Andrea, councillor.
3. Dr. Mazzocca Nicola, councillor.

4. Dr. Alciéri Francesco, councillor.

5. Dr. Putaturo Giuseppe, councillor.

By reading the petition of Carozza Francesco, son of Marco, in order to obtain the rehabilitation from judicial consequences of the sentences imposed on him as registered in the Hall of Record on March 4, 1955—By reading the district attorney requisitory, by taking in consideration the report of the Councillor delegate Dr. Giuseppe Putaturo, also all the documents exhibited it appears that Carozza Francesco fulfilled all the obligations imposed by the sentence, and has given also a constant prove of his very good conduct.

Based on the articles 179 C.P. and 597 C.P.P. the assembly consider Carozza Francesco, son of Marco and Carozza Antonia, born in S. Marco Evangelista on March 10, 1913, rehabilitate from juridical consequences for the following sentences:

1. July 23, 1946, Court of Appeals of Naples, reclusion for 10 months and lire 6,000 penalty (suspension).

2. January 26, 1950, Pretorship of Maddalane, reclusion for 20 days and lire 6,000 penalty, permission to carry army (pardon).

Signatures affixed. Registered March 31, 1955:

(Signed) GRASSO, *The registrar.*

This is the exact copy from the original issued upon request of the party interested for all the purpose consented by the law with previous authorization of the president.

(Signed) CASERTA, *The Chancellor.*

NAPLES, March 27, 1957.

Stamp [Seal] of the Court of Appeals of Naples affixed.

I the undersigned, Gennaro E. Capriulo, notary public in the city of New York, county of Richmond, State of New York, knowing both Italian and English languages, certify that the above is the exact translation of the certificate herewith attached from Italian into English to the best of my knowledge and belief.

[SEAL]

GENNARO E. CAPRIULO,
Notary Public, State of New York.

Commission expires March 30, 1957.

PORT RICHMOND, *Staten Island, N.Y.*

To Whom It May Concern:

I, Alessandro Carozza, resident of 54 Simonson Place, Staten Island 2, N.Y., state hereforth; that my brother, Francesco Carozza, never accepted any stolen property. The goods which he received were given as gifts, by an American soldier and an English soldier, in exchange for the services he rendered to them.

At the time this had taken place, my brother owned a canteen in Naples, Italy. He merely received the goods in return for food and liquor which he gave to the two soldiers.

In 1944, when the Allies occupied Naples, my brother and the other citizens were under the jurisdiction of the Allies.

My deceased father and I sent many packages of surplus clothing to my brother. This was found in his possession and a charge was brought against him for receiving stolen property. Unfortunately, his business establishment was raided by the Ally soliders and a charge of receiving stolen goods was brought against him. He was later fined. The fine was paid and he was released.

ALESSANDRO CAROZZA.

Sworn to before me this 18th day of August 1959.

[SEAL]

WILLIAM F. NORTH,

Notary Public, State of New York.

Commission expires March 30, 1960.

PARROCHIA SPIRITO SANTO,
S. MARCO EVANGELISTA,
Diocesi di Caserta.

I, undersigned, Rev. Portento Giuseppe, pastor of the Church of the Holy Spirit, in St. Mark Evangelist of Caserta, certify that Mr. Francesco Carozza, a parishioner of mine, has always been of good moral and civil behavior; he always has been a good christian and obedient of the divine laws, as well as of the human laws.

I certify that, I never heard anything against his reputation, and, as far as I know, he never was connected with a party of extreme tendency.

I certify the above in full knowledge for all the permissible purposes.

In faith,

Rev. GIUSEPPE PORTENTO, *Pastor.*

S. Marco Evangelista, 28/4/1959.

I, Alessandro Carozza, residing at 54 Simonson Place, Port Richmond, Staten Island, N.Y., do hereby certify that this is a true transcription from the Italian language to the English language.

ALESSANDRO CAROZZA.

Sworn to before me this 18th day of August 1959.

[SEAL]

WILLIAM F. NORTH,

Notary Public, State of New York.

Commission expires March 30, 1960.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 1643) should be enacted.